

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MARIO A. VALENZUELA,

Plaintiff,

v.

SANTIESTEBAN,

Defendant.

Case No. 1:20-cv-01093-NONE-BAM (PC)

**ORDER DISCHARGING ORDER TO SHOW
CAUSE REGARDING DEFENDANTS'
FAILURE TO COMPLY WITH COURT
ORDERS**

(ECF No. 55)

Next Status Report Due: June 14, 2023

Plaintiff Mario A. Valenzuela ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Santiesteban, Rodriguez, and Alejo for excessive force in violation of the Eighth Amendment and against Defendant Perez for failure to protect in violation of the Eighth Amendment, arising from the incident on June 22, 2019.

On April 9, 2021, the Court granted Defendants' motion to stay this civil action until Plaintiff's criminal charges in Kings County Superior Court, case number 20CM-1621, arising from the same June 22, 2019 incident involved in this action, are resolved. (ECF No. 38.) Defendants were directed to file a status report within ninety (90) days from the date of service of that order, and every sixty (60) days thereafter, addressing the status of the criminal proceedings until they are resolved. (*Id.* at 6.) On September 20, 2021, the Court directed Defendants to continue filing status reports every ninety days, rather than every sixty days. (ECF No. 45.)

Defendants' next status report was due on or before March 13, 2023.

Following Defendants' failure to file a status report as directed, on March 16, 2023, the Court issued an order to show cause directing Defendants to file a status report within seven days or a written response regarding their failure to do so. (ECF No. 55.)

The same date, Defendants filed a status report and response to the order to show cause. (ECF No. 56.) Defendants indicate that Plaintiff's criminal case is still ongoing, and the next court date is on March 27, 2023, where the criminal court will check on whether a trial date may be set. Defendants indicate that they will continue to file a status report every ninety days until Plaintiff's criminal proceedings are resolved. (*Id.*)

Based on the prompt filing of Defendants' status report, the Court will discharge the order to show cause. However, defense counsel is advised that it is not an efficient use of the Court's resources to issue an order to show cause each time Defendants fail to timely file a status report. (*See* ECF Nos. 40, 43, 55.) Defense counsel is therefore informed that the next status report is due in ninety (90) days from the filing of the prior status report, or on or before **June 14, 2023**. Failure to timely file a status report will result in the issuance of an order to show cause for an in-person appearance to explain the failure to repeatedly comply with this Court's orders.

Accordingly, IT IS HEREBY ORDERED as follows:

1. The Court's March 16, 2023 order to show cause, (ECF No. 55), is HEREBY DISCHARGED;
2. Defendants are directed to continue filing a status report every **ninety (90) days**;
3. The next status report is due on or before **June 14, 2023**; and
4. This action remains stayed.

IT IS SO ORDERED.

Dated: March 20, 2023

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE